



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGIONS 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

BY CERTIFIED MAIL

April 26, 2006

Thomas Temple  
Vice President, Environmental  
Ormet Primary Metals Corporation  
43840 State Rte 7  
Hannibal, OH 43931



Re: CERCLA Remedial Action Consent Decree - Financial Assurance Requirements

Dear Mr. Temple:

The purpose of this letter is to request that Ormet Primary Metals Corporation (Ormet) provide the U.S. Environmental Protection Agency (U.S. EPA) with documentation that it established and continues to maintain adequate financial assurance for performance of the CERCLA response activities at its Hannibal, Ohio facility as required by the Consent Decree entered in the U.S. District Court for the Southern District of Ohio, Civil Action No. C2-95-947 on December 18, 1995.

The remedial work required to be performed under the above consent decree includes: construction of trench drains to intercept leachate seeps from the Construction Materials Scrap Dump (CMSD) and treatment of the leachate to NPDES permit discharge limits; pumping of ground water from interceptor wells to the groundwater treatment system until groundwater performance standards listed in Table 2 of the SOW are met throughout the contaminated plume and at the down gradient points of compliance established during remedial design pursuant to the SOW; pumping from the interceptor wells and the Ormet Ranney well to maintain a capture zone preventing migration of contaminants beyond the CMSD; treatment of pumped ground water to NPDES permit discharge limits before discharge to the Ohio River; treatment of residual soil contamination in the Former Spent Potliner Storage Area by in-situ soil flushing until soil cleanup standards listed in the SOW are achieved; construction of a Toxics Substance Control Act (TSCA) cell at the Construction Materials Scrap Dump and installation of a RCRA Subtitle C-compliant cap over the Construction Materials Scrap Dump; removal of contaminated soils and sediments (PCBs and PAHs) from the Carbon Runoff and Deposition Area and the Outfall 4 stream backwater area and consolidation of the removed materials in the CMSD landfill or the TSCA cell within it; fence construction; operation and maintenance of the remedial components; and implementation of deed restrictions to prohibit installation of drinking water wells or residential construction on the site. The physical components of this work have been constructed

and the work is now in the "operation and maintenance phase".

Section XIV of the Consent Decree obligates Ormet to establish and maintain financial security for performance of the "Work". "Work" is defined as "all activities Settling Defendant is required to perform under this Consent Decree except [retention of records]," and includes the operation and maintenance of the remedial action components specified above. Paragraph 43 of the Decree provides that such financial security be established in one or more of the following forms: a surety bond guaranteeing performance of the Work; irrevocable letter(s) of credit equaling the total estimated cost of the Work; a trust fund; a guarantee to perform the Work by one or more parent corporations or subsidiaries or unrelated corporation with a substantial business relationship with Ormet; or a demonstration that Ormet satisfies the "financial test" set forth at 40 C.F.R. Part 264.143(f).<sup>1</sup> Paragraph 43 of the Consent Decree required that the financial security be in the amount of \$8,238,145.00, which, I believe, was the total estimated cost of the Work to be implemented at the time the Consent Decree was entered. Paragraph 45 of the Consent Decree provides that upon a showing by Ormet that the estimated cost to complete the Work has diminished below the amount set forth in Paragraph 43 after entry of the consent decree, Ormet may reduce the amount of financial security provided to the estimated cost of the remaining work to be performed.

The U.S. EPA has made it a priority to review CERCLA remedial action consent decrees that have outstanding work obligations involving substantial expenditures, to ensure that the settling defendants continue to meet their financial assurance obligations. Accordingly, Bernard Schorle, the remedial project manager (RPM) for the Ormet site, has reviewed the site file to determine if financial assurance is in place for the ongoing response actions required by the 1995 Consent Decree. The most recent document that Mr. Schorle found relating to the financial assurance requirements is a March 22, 2001 letter from Richard D. Caruso, Vice-President, Finance and Chief Finance Officer, Ormet Primary Aluminum Corporation, to the Regional Administrator, U.S. EPA, Region V, which stated that the letter was intended to demonstrate financial assurance for closure and/or post-closure costs for the Hannibal, Ohio facility as specified in 40 C.F.R. Parts 264 (and 265)-Subpart H, and estimated "current closure and/or post closure costs" at \$4,400,000. This letter did not reference the CERCLA consent decree; however the RPM believes that it was intended to address Ormet's financial assurance obligations under the Consent Decree. There was no indication as to whether U.S. EPA concurred that the information provided in the March 22, 2001 letter was sufficient to demonstrate that the company met the financial test. Although the Consent Decree requires annual certified submissions of current financial information to

---

<sup>1</sup>40 C.F.R. Part 264.143 was promulgated pursuant to the Resource Conservation and Recovery Act (RCRA) and is directly applicable to RCRA-regulated hazardous waste management facilities. It includes descriptions of five forms of financial assurance which such facilities are required to establish for closure of the facility and post closure care. Paragraph 43 of the Ormet Consent Decree directs Ormet to use one or more of the forms of financial assurance described in this regulation as financial assurance for performance of the CERCLA remedial action.

demonstrate Ormet Primary Aluminum Company's continuing ability to satisfy the financial test, no subsequent submissions have been located in our files.

U.S. EPA is requesting that you, in your capacity as the Chief Financial Officer of Ormet Primary Aluminum Company, advise U.S. EPA whether Ormet currently is in compliance with Paragraph 43 of the Consent Decree and, if so, provide documentation that Ormet has in place financial security in one or more of the forms specified in Paragraph 43, equal to the estimated remaining operation and maintenance costs, or provide a demonstration that it meets the financial test set forth in 40 C.F.R. Part 264.143(f)(1). A demonstration showing that Ormet meets the financial test must be in accordance with 40 C.F.R. Part 264.143(f)(3). Ormet must also submit documentation supporting its estimate of the annual operation and maintenance costs and the total operation and maintenance costs to operate the components of the remedial action until cleanup standards for soil and groundwater will be achieved.

If Ormet does not currently have in place financial assurance as required by the Consent Decree, so state in your letter. Please note that the Consent Decree provides for an alternative means of establishing financial assurance of ability to complete the Work, subject to U.S. EPA approval, if Ormet is unable to meet the financial test, which may be used in lieu of the four mechanisms set forth in Paragraph 43. See Paragraph 43(f). Please direct your letter and the requested information to Bernard Schorle, Remedial Project Manager, Superfund Division, 77 West Jackson Boulevard, Chicago, IL 60604, on or before May 31, 2006.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Garber", written in a cursive style.

Deborah Garber, Chief  
Section 1, Branch 2  
Office of Regional Counsel

cc: Bernard Schorle